

# THE CONGRESS OF LOCAL AND REGIONAL AUTHORITIES

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## Recommendation 322 (2012)<sup>1</sup> Local and regional democracy in the Republic of Moldova

1. The Congress of Local and Regional Authorities of the Council of Europe refers to:

*a.* Article 2, paragraph 1.b.of Statutory Resolution CM/Res(2011)2 of the Committee of Ministers relating to the Congress of Local and Regional Authorities of the Council of Europe, which stipulates that one of the aims of the Congress is “to submit proposals to the Committee of Ministers in order to promote local and regional democracy”;

*b.* Article 2, paragraph 3, of the aforementioned Statutory Resolution CM/Res(2011)2, which stipulates that “The Congress shall prepare on a regular basis country-by-country reports on the situation of local and regional democracy in all member states and in states which have applied to join the Council of Europe, and shall ensure, in particular, that the principles of the European Charter of Local Self-Government are implemented”;

*c.* its Resolution 307 (2010) REV on Procedures for monitoring the obligations and commitments entered into by the Council of Europe member states in respect of their ratification of the European Charter of Local Self-Government (ETS No. 122);

*d.* its Recommendation 219 (2007) on the status of capital cities;

*e.* its Recommendation 179 (2005) on local democracy in Moldova;

*f.* its Resolution 299 (2010) on Follow-up by the Congress of the Council of Europe Conference of Ministers responsible for Local and Regional Government (Utrecht, Netherlands, 1617 November 2009), which states that the Congress will use the Council of Europe Reference Framework for Regional Democracy (MCL-16(2009)11) in its monitoring activities, as well as the reply made by the Committee of Ministers to the Congress Recommendation 282 (2010) (CM/CONG(2011)Rec282final), encouraging the governments of member states to take account of the above mentioned Reference Framework;

*g.* the explanatory memorandum of the present recommendation on local and regional democracy in the Republic of Moldova.

2. The Congress underlines that:

*a.* the Republic of Moldova became a member of the Council of Europe on 13 July 1995. It signed the European Charter of Local Self-Government (ETS No.122) on 2 May 1996

and ratified it on 2 October 1997 without any reservations. The Charter came into force in respect of the Republic of Moldova on 1 February 1998;

*b.* the Republic of Moldova has not signed the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority (CETS No. 207);

*c.* on 23 March 2011 the Congress Committee on the Honouring of Obligations and Commitments by Member States of the European Charter of Local Self-Government (Monitoring Committee) appointed Mr Francis Lec and Mr Ignacio Sanchez Amor<sup>2</sup> rapporteurs and instructed them to prepare and submit to the Congress a report on local and regional democracy in the Republic of Moldova;

*d.* the rapporteurs travelled to the Republic of Moldova to Chişinău on 12 and 13 September 2011 and subsequently to Chişinău, Coşniţa (Dubăsari) and Condrîţa from 23 to 25 November 2011. The delegation met the Acting President of the Republic of Moldova, representatives of the Parliament and the Government, representatives of the Congress of Local Authorities of Moldova, representatives of the Constitutional Court and the Court of Auditors, the Parliamentary Advocate (Ombudsman), the representatives of the Organization for Security and Co-operation in Europe (OSCE) in the Republic of Moldova, the Mayor of Chişinău, representatives of the Autonomous Territorial Unit of Gagauzia and the local representatives of Coşniţa and Condrîţa.

3. The Congress would like to thank the Permanent Representation of the Republic of Moldova to the Council of Europe, the Moldovan authorities at central, regional and local levels, the Moldovan delegation to the Congress and its secretariat, the Congress of Local Authorities of Moldova CALM and all the persons consulted, for their valuable co-operation during the different stages of the monitoring procedure and for the information provided to the delegation.

4. the Congress notes with satisfaction:

*a.* the progress made in the Republic of Moldova since the Recommendation 179 (2005), in particular the measures launched by Parliament in the form of an action plan in response to all of the Council of Europe recommendations. This plan has given rise to several legislative and institutional initiatives in the field of local public administration;

*b.* that the decentralisation of power and local self-government are one of the strategic priorities of the 2011-2014 Work Programme of the Government of the Republic of Moldova;

*c.* that on 26 January 2012 the Government approved the National Decentralisation Strategy, which should be on the Parliament’s agenda for the first half of 2012;

*d.* the Council of Europe joint project with the Republic of Moldova for the introduction of confidence-building measures on both banks of the river Nistru/Dniestr in 2011, including the proposed follow-up measures to be taken in 2012, and the outlook for 2013;

e. the progress made in regional development policy, particularly through various crossborder projects in which the Republic of Moldova is currently taking part;

f. the inclusion on the Parliament's agenda (for the first half of 2012) of the enactment of a new law on the status of the capital city;

g. the threefold increase in the number of women acceding to local public office over the past 8 years and the existence of several projects aimed at consolidating women's position in society, in particular the "Gender Strategy".

5. Taking note that a certain number of points taken up in Congress Recommendation 179 (2005) on local and regional democracy in Moldova still remain relevant, the Congress notes with regret:

a. that one of the consequences of the current political crisis in the Republic of Moldova has been to put a break on the measures for the development of local public administration set out in the Moldovan Government's Work Programme for 2011-2014;

b. that the Ministry of Local Authorities has been abolished;

c. the major imbalance between local authorities' powers and responsibilities and the resources allocated to them;

d. local authorities' very limited financial and fiscal autonomy, which is reflected in the excessive oversight exercised by the national authorities over tier II and by tier II over tier I, in particular with regard to the management of financial resources;

e. the insufficiency of local taxes and the lack of clarity in the way in which central government redistributes financial resources to local authorities;

f. the lack of clarity in the distribution of powers and responsibilities between the two tiers of local authorities and between local and central government;

g. the lack of regulations for expediency checks, sometimes carried out at its own discretion, by central government on the way in which local authorities exercise the powers delegated to them by the state;

h. local authorities' limited freedom in recruiting and fixing the conditions for the remuneration of local government officials, and the existence of discrimination between public officials working for central government and those working for local government officials with regard to their conditions of pay;

i. the absence of relevant legislation enabling the local authorities or their representatives to take legal action before all their domestic courts in the event of a violation or the risk of a violation of one of their rights;

j. the functioning of the capital, which is governed by an inappropriate law that does not correspond to the special situation of Chişinău, which has a dual status, given that it is both a tier I territorial unit (*oraş*) and a tier II unit (*municipiu*);

k. the difficulties that local elected representatives in the region to the right and left of the Nistru/Dniestr have in fulfilling their duties, owing to the pressure exerted on them by the security forces in the Transnistrian region of the Republic of Moldova;

l. the difficulties facing citizens living in localities close to and in the security zone of the Transnistrian region of the Republic of Moldova with regard to freedom of movement and the management of their everyday affairs;

m. the insufficient dialogue between central government and the authorities of Gagauzia with regard to all aspects of local self-government concerning them.

6. The Congress recommends that the Committee of Ministers invite the Moldovan authorities to:

a. continue discussions on the National Decentralisation Strategy within Parliament with a view to its adoption and ensure that it is implemented in keeping with the national authorities' stated intentions;

b. reconsider establishing a Ministry of Local Authorities with responsibility for decentralisation and the reform of public administration;

c. allocate to local authorities financial resources which are commensurate with their powers and responsibilities, as stated in Article 9(2) of the European Charter of Local Self-Government, so that they are in a position to exercise them in the light, in particular, of Congress Recommendation 313 (2011) on local elections in the Republic of Moldova (5 June 2011);

d. reduce the supervision of local authorities to allow them to manage their own affairs, in compliance with Article 8(3) of the European Charter of Local Self-Government;

e. permit local authorities to collect more fees and local taxes, in addition to property tax and taxes on built assets, the rates of which could be determined by local authorities within the limits set by the law, in keeping with Article 9(3) of the European Charter of Local Self-Government. It also appears necessary to clarify the procedures for the share of financial resources allocated to local authorities so that they are in a position to draw up their own budget and meet their citizens' needs;

f. review the legislation currently in force in respect of local public administration to bring it into line with the principles set out in the European Charter of Local Self-Government. In particular revise the provisions concerning powers and responsibilities to clarify the powers and responsibilities of tier I and tier II local authorities and those of central government with regard to local democracy. This should be done in such a way as to avoid the overlapping of powers and responsibilities not only between these levels but also between central government and local authorities;

g. review the legislation governing expediency checks to ensure that they are clearly regulated and restricted, in particular by laying down criteria defining the exact cases in which such checks may be carried out;

*h.* safeguard local authorities' right to decide on their own staff policy and eliminate discrimination towards local public officials in national legislation with regard to the status and remuneration of national public officials and local government officials;

*i.* revise the relevant legislation in order to clarify it regarding, on the one hand, the ability of local authorities and/or their representatives to take legal action before the courts in the event of a violation, or the risk of a violation, of one of their rights; and, on the other, the subjects of appeal, so as to enable those authorities or their representatives to lodge a direct appeal before all their domestic courts against any legislative or governmental act which affects or could potentially affect their rights;

*j.* continue the efforts made by the authorities to improve the consultation of local authorities on all matters directly concerning them on the basis of a detailed procedure in keeping with Article 4(6) of the European Charter of Local Self-Government;

*k.* enact and implement a new law on the status of the capital city, Chişinău, in accordance with Recommendation 219 (2007) of the Congress;

*l.* take the necessary steps to render the area close to the Transnistrian region of the Republic of Moldova more secure and put a stop to the intimidation to which some local elected representatives are subjected;

*m.* take measures to ensure the free movement of people and goods and implement economic development programmes with commensurate financial resources for local authorities in the immediate neighbourhood of the Transnistrian region of the Republic of Moldova; enhance co-operation and confidence-building measures between the population and the local and regional authorities in the regions to the left and right of the Nistru/Dniestr situated in the security zone;

*n.* introduce a mechanism for improving dialogue between central government and the authorities of the Autonomous Territorial Unit of Gagauzia on all aspects of local democracy;

*o.* sign and ratify, in the near future, the Additional Protocol to the European Charter of Local Self-Government on the Right to Participate in the Affairs of a Local Authority dated 16 November 2009;

*p.* calls upon Moldova's authorities to promptly ratify the European Charter for Regional or Minority Languages (ETS No. 148).

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1. Debated and adopted by the Congress on 22 March 2011, 3rd Sitting (see document CG(22)10 explanatory memorandum), Rapporteurs: F. Lec, France (L, SOC) and A. Miele, Italy (R, EPP/CD).

2. By decision of the Monitoring Committee on 24 February 2012, Mr Angelo Miele (Italy, R, EPP/CD) was appointed Rapporteur on regional democracy in the Republic of Moldova, in order to replace Mr Ignacio Sanchez Amor, who is no longer a member of the Congress since December 2011.